

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

J. PATRICK COLLINS, *et al.*,
Plaintiffs,

v.

Civil Action No. 4:16-cv-03113

THE FEDERAL HOUSING FINANCE
AGENCY, *et al.*,

Defendants.

ADVISORY

Defendants Steven Mnuchin and the Department of the Treasury (“Treasury Defendants”) hereby submit this advisory regarding their pending motion to dismiss Plaintiffs’ Complaint.

In their reply memorandum filed on February 27, 2017, Treasury Defendants noted their support for arguments made by Defendants Melvin Watt and the Federal Housing Finance Agency (“FHFA Defendants”) in opposition to Plaintiffs’ Motion for Summary Judgment brought as to Count IV of Plaintiffs’ complaint. *See Doc. 38, Reply Mem. in Supp. of Treasury Defs.’ Mot. to Dismiss*, at 2 n.1. Subsequently, the Department of Justice filed an amicus brief in *PHH Corporation v. Consumer Financial Protection Bureau* (“CFPB”), No. 15-1177 (D.C. Cir.), setting forth the United States’ agreement with the conclusions of the panel of the D.C. Circuit that the for-cause removal provision applicable to the director of the CFPB violates the constitutional

separation of powers, and that the proper remedy is to sever the for-cause removal restriction. *See United States Amicus Br.*, 2017 WL 1035617 (filed March 17, 2017). The United States' brief discusses the other agencies headed by a single officer with a for-cause limitation on removal, *id.* at 17-19, but notes that the D.C. Circuit panel "appropriately did not address the application of its ruling to other agencies not before the Court." *Id.* at 19 n.4.

In light of the filing of the United States' amicus brief in *PHH Corporation v. CFPB*, to the extent it may be necessary in this case to reach the issue of whether the removal provision applicable to FHFA's Director is constitutional, Treasury does not urge reliance on footnote 1 of its reply memorandum.

Dated: March 24, 2017

Respectfully submitted,

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